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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2048

JACOB IBARRA
1600 Saratoga Avenue, #403-243
San Jose, CA 95129

A C C U S A T I O N

Respiratory Care Practitioner License No. 20564

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about December 24, 1998, the Respiratory Care Board issued Respiratory Care Practitioner License Number 20564 to Jacob Ibarra (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2008, unless renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 3710 of the Code states: “The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
4 8.3, the Respiratory Care Practice Act].”

5 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
6 and revoke licenses to practice respiratory care as provided in this chapter.”

7 6. Section 3750 of the Code states:

8 “The board may order the denial, suspension or revocation of, or the imposition of
9 probationary conditions upon, a license issued under this chapter, for any of the following
10 causes:

11 “(d) Conviction of a crime that substantially relates to the qualifications,
12 functions, or duties of a respiratory care practitioner. The record of conviction or a
13 certified copy thereof shall be conclusive evidence of the conviction.”

14 “(g) Conviction of a violation of any of the provisions of this chapter or of any
15 provision of Division 2 (commencing with Section 500), or violating, or attempting to
16 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
17 violate any provision or term of this chapter or of any provision of Division 2
18 (commencing with Section 500).”

19 7. Section 3750.5 of the Code states:

20 “In addition to any other grounds specified in this chapter, the board may deny,
21 suspend, or revoke the license of any applicant or license holder who has done any of the
22 following:

23 “(a) Obtained or possessed in violation of law, or except as directed by a licensed
24 physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or
25 administered to another, any controlled substances as defined in Division 10 (commencing with
26 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2
27 (commencing with section 4015) of Chapter 9.”

28 ///

1 include attorney general or other prosecuting attorney fees, expert witness fees, and other
2 administrative, filing, and service fees."

3 12. Section 3753.1 of the Code states:

4 "(a) An administrative disciplinary decision imposing terms of probation may
5 include, among other things, a requirement that the licensee-probationer pay the monetary costs
6 associated with monitoring the probation. "

7 FIRST CAUSE FOR DISCIPLINE

8 (Conviction of a substantially-related crime ; Possession of marijuana)

9 13. Respondent is subject to disciplinary action under sections 3750(d) and
10 3752 [conviction], 3750(g) and 3750.5(a) in that he entered a plea of guilty to a violation of
11 Vehicle Code section 23222(b), possession of marijuana, a misdemeanor, and he was in
12 possession of a controlled substance (marijuana). The circumstances are as follows:

13 14. On or about November 4, 2005, Campbell Police Officer F. Ramirez was
14 working traffic enforcement. He observed respondent driving 50 miles per hour in a 35 mile per
15 hour zone. He made a traffic stop, and asked respondent for identification. As Officer Ramirez
16 spoke to respondent, he smelled marijuana. He asked respondent if he had any marijuana, and
17 initially respondent denied having any. Respondent then admitted he had marijuana and stated
18 that it was in the glove box. Officer Ramirez searched the vehicle and found a small quantity of
19 a substance, which based on the officer's training and experience, he believed to be marijuana.
20 Officer Ramirez also found a marijuana pipe in the center console. He issued a citation to
21 respondent for violations of Vehicle Code section 22350 [speeding], an infraction, and Vehicle
22 Code section 23222(b), possession of marijuana, a misdemeanor.

23 15. On or about March 21, 2006, respondent appeared for arraignment before
24 Judge Derek Woodhouse in the Hall of Justice, San Jose, California. He entered a plea to Counts
25 1 and 2, and was ordered to attend a Pacific Seminar class on marijuana.

26 16. On or about May 2, 2006, respondent appeared before Judge James H.
27 Chang. Respondent provided proof that he had attended a Pacific Seminar class, Count 2 was
28 dismissed in the interests of justice, and he was ordered to pay fine.

1 17. Therefore, respondent's license is subject to discipline based on his
2 possession of a controlled substance, marijuana, in violation of Business & Professions code
3 section 3750(d) and 3752, 3750.5(a), 3750(g) and CCR 1399.370(a).

4 DISCIPLINE CONSIDERATIONS

5 18. To determine the degree of discipline, if any, to be imposed on
6 Respondent, Complainant alleges that on or about December 1, 2003, the Board adopted a
7 Stipulated Settlement for Public Letter of Reprimand against Jacob Ibarra, Case No. R-1812,
8 based on respondent's December 12, 2002 conviction for driving under the influence of alcohol,
9 in violation of Business & Professions code section 3750(d), 3752 and 3750.5(b). That decision
10 is now final and is incorporated by reference as if fully set forth.

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

14 1. Revoking or suspending Respiratory Care Practitioner License no. Number
15 20564, issued to Jacob Ibarra.

16 2. Ordering Jacob Ibarra to pay the Respiratory Care Board the costs of the
17 investigation and enforcement of this case, and if placed on probation, the costs of probation
18 monitoring;

19 3. Taking such other and further action as deemed necessary and proper.

20
21 DATED: January 5, 2007
22
23

24 Original signed by Liane Zimmerman for:
25 STEPHANIE NUNEZ
26 Executive Officer
27 Respiratory Care Board of California
28 Department of Consumer Affairs
 State of California
 Complainant